

14 September 1973

Mr. President:

I appreciate the concern of the Senator from _____ that the Central Intelligence Agency not engage in domestic activities outside of its statutory charter. But I do feel that it is unwise to legislate in this area without the benefit of hearings where this matter can be thoroughly considered with the care that it deserves.

I do not believe there is any disagreement whatsoever on the fact that the Central Intelligence Agency should not engage either in domestic intelligence or in the exercise of police powers. Moreover, the 1947 law (section 102 of the National Security Act of 1947) prohibits such activities:

"PROVIDED, That the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions...."

It is the clear intent of the law that CIA not be engaged domestically in collecting information on citizens of the United States who, unlike Agency employees, for example, are not of legitimate interest to the Agency. Moreover, the CIA quite rightly has no police, subpoena, or law-enforcement powers and as far as I know has never attempted to exercise such powers and its legal inability and lack of authority to do so is abundantly clear.

On the other hand, I do not think there is anything in the law which would prohibit CIA from protecting its installations in the United

States or investigating its personnel or other persons having a need for access to its information, or, of course, in engaging in activities in the United States solely in support of the Agency's foreign intelligence mission.

I do feel, however, that because of the sum of events the time has come to review the statutory underpinnings of the Central Intelligence Agency to assure that the statutory lines drawn by Congress are clear and where we want them. Such a review can only be conducted properly through the traditional hearings process as the judgment reached by Congress should be the result of comprehensive consideration of all relevant factors.

As I stated in my 19 July letter to Senator Muskie, I have already started some staff work review of the CIA Act preparatory to hearings by the Senate Armed Services Committee. During the planned hearings all proposed changes, additions or deletions can be fully developed.

One problem I have with the amendment illustrates why I am disturbed about developing legislation on the floor of the Senate without proper background hearings. As I read the amendment, CIA could be effectively prohibited from providing assistance of any kind to any agency engaged in police, law-enforcement, or internal-security functions. Let's consider what this could mean.

In the course of its intelligence mission, CIA could develop information on such things as narcotics smuggling, aerial high-jacking, terrorism, and foreign directed espionage and subversion, information which could assist in forestalling serious criminal action or security threats within the United States. Does the Senator really want to prohibit the forwarding of that type of information on to the domestic agencies who could use it to prohibit or solve a criminal offense?

Mr. President, it is hoped that my colleagues will agree with me that the amendment of the Senator from _____ should be rejected with the understanding that all legislative proposals relating to CIA will be given a fair and full hearing before the Senate Armed Services Committee during the 93rd Congress.

S 14190

CONGRESSIONAL RECORD — SENATE

July 20, 1973

Eagleton amendment, now we become lawyers and take a look at it. Here again, there are problems.

I would like to point out the defined parameters of the Eagleton amendment:

Any person employed by, under contract to, or under the direction of any department or agency of the United States Government.

That could include almost anyone; it is not confined to the CIA. Indeed, it is difficult to say what the limits of its coverage may be. Later on, I will explore whether it would cover foreign nationals, and particularly foreign nationals who may be covert intelligence agents of the United States. For instance, would Colonel Penkovsky, who was a member of the Soviet military and who provided so much key intelligence to the CIA right out of the Kremlin, the Soviet General Staff, would he have been covered?

Lots of things lead to war. A man on horseback may lead to war; national hatred could lead to war; anything could lead to war. We cannot deal with all those subjects in this bill.

Another important consideration is that there outside the Armed Forces, was are covered by the bill, is no agency of the United States which has any appreciable armed forces power, not even the CIA. They might have some clandestine agents with rifles and pistols engaging in dirty tricks, but there is no capability of appreciable military action that would amount to war. Even in the Laotian war, the regular U.S. Armed Forces had to be called in to give air support. The minute combat air support is required you have the Armed Forces, and the bill becomes operative. A key control which would not be reached by this amendment even if it could, would be control of the use of money. The fact is that vast sums of money were given to Vang Pao in Laos to pay for mercenary Meo army. The use of Air America, which was a logistical operation, and not a combat operation, presumably would not be reached by the amendment along it was a key factor in CIA involvement in the secret war in Laos.

Finally, one point of draftsmanship.

It will be noted the amendment starts out with the language, "Any person employed by." That includes a foreign person, as well. There are many clandestine agents who are foreign and employed by, in the sense of being financed, maintained by, and directed by Department of the U.S. Government, which is one of the facts of life. Are they covered by this bill? If they are clandestine agents who are members of foreign armies does this amendment apply? Suppose a member of the Soviet or Chinese, or Vietcong armies is a CIA "controlled American source," does this amendment apply if his unit goes into hostilities?

Substantive law can determine what activities can be engaged in with respect to foreigners in terms of pay, and so forth. Law can determine that, but it is hardly a methodology. You would be dealing there with substantive approaches to the law. Shall the United States employ foreign citizens for these purposes? If it does, in what manner, and how are they controlled, and so forth?

Again, this is beyond the ambit of this bill.

The matter was so eloquently and precisely put by the Senator from Maine (Mr. MUSKIE) in what he said in respect of the amendment. It simply does not fit within this context, and considering the historic nature and importance of the context we should not burden it with substantive questions which in addition to all other points made are within the jurisdiction of another legislative standing committee, to wit, the Committee on Armed Services; and where we are not faced with any question of avoiding the issue, but have the word of a man whose word rings as true around here as that of any Senator of the United States, and that is that he proposes to deal with the question.

One other point which is interesting: I, too, have talked with the Senator from Mississippi (Mr. STENNIS) at length. He was very reluctant to make this expression on this particular amendment, because he felt that he wanted no feeling here in the Senate that he was trying to have his voice carry Senators when he was far away from us. He, too, like everybody else, wanted to be subject to debate and cross-examination. But I think the Senator from Maine (Mr. MUSKIE), and I prevailed on him to feel that as he had used his privilege very sparingly and he had this bill so close to his heart, this was a measure in which that was deserved, and I am glad to say he acted accordingly.

Mr. MUSKIE. Mr. President, I yield myself 2 minutes.

Reference has been made to communication with the Senator from Mississippi (Mr. STENNIS), and as the Senator from New York (Mr. JAVRS) has explained, the Senator from Mississippi was very reluctant to appear to be trying to influence votes here when he could not participate personally. But we prevailed upon him, and I take the opportunity to read that letter into the Record:

JULY 19, 1973.

Hon. EDMUND S. MUSKIE,
U.S. Senate,
Washington, D.C.

Dear Ed: If I could be on the Floor, I would support you fully as you push for the passage of the War Powers Bill, as reported by the Foreign Relations Committee, without further amendments of any substance.

One amendment of substance is by the Senator from Missouri, Mr. Eagleton, who has done much work and has made a fine contribution to this important bill as it now stands. This amendment has a prohibition of using the C.I.A., or its funds, in war activities of the type we have used in Laos. The experience of the C.I.A. in Laos, as well as more recent disclosures of matters here at home have caused me to definitely conclude that the entire C.I.A. Act should be fully reviewed.

Accordingly, I already have in mind plans for such a review of the C.I.A. Act by the Senate Armed Services Committee and have already started some staff work thereon. All proposed changes, additions or deletions can be fully developed and hearings held thereon at that time. I have already completed, but have not yet introduced some amendments of my own. The proposal by the Senator from Missouri, Mr. Eagleton, to explicitly prohibit any action by the C.I.A. of the type we have had in Laos, or any other activity of

that kind could and would be fully considered by the Committee at that time. I could support some major points in that particular amendment as a part of a bill on the subject, but fully oppose the amendment presented as a part of the War Powers Bill.

The bill now before the Senate, as finally written and improved by the Foreign Relations Committee, is an excellent bill and is confined to the Constitutional subject of actually committing the nation to war.

I believe this bill, if confined to its proper subject matter will pass the Senate by a large vote and will emerge from the Conference Committee as a bill with meaning. There are reports, which I hope are erroneous, that a veto is in prospect if this bill passes. If so, I feel so strongly that a meaningful bill relating to the War Powers, and the responsibilities of the President and the Congress, should be passed, and I would strongly urge that that bill pass, the veto notwithstanding. If we clutter the War Powers Bill with other matters we would probably kill what is otherwise a good chance to override a possible veto.

Again, I certainly wish you well, and hope the Committee bill in its present form can be preserved and passed and passed by a large vote.

Most sincere yours,

JOHN C. STENNIS,
U.S. Senator.

I think those who read this letter would agree that this is an extraordinarily strong commitment from the Senator from Mississippi. To have anticipated a veto, and to have indicated with such vigor his intention to press for an override, I think is the kind of action the Senator from Mississippi would rarely take. It is because of his voice, and that of the Senator from New York, and my own understanding of the forces that went into putting this bill together, that I reluctantly oppose the amendment of the distinguished Senator from Missouri.

Mr. EAGLETON. Mr. President, I yield myself such time as I may consume.

I sat here and listened with deep interest to the comments of both the Senator from Maine (Mr. MUSKIE) and the Senator from New York (Mr. JAVRS). They are both men of extraordinary capability and good will, and I suspect that deep down in the inner recesses of their hearts they know I am right. I think they would like to vote for the Eagleton amendment. In fact, I think they believe in it, because what triggered the situation that we find ourselves in today—what triggered the war powers bill pending before this body today—was not the fact that all of us went, during the recess, to academia and hibernated with professors. We did not just sit there and read lots of constitutional lawbooks, statutes, and what have you. It was not because a lot of thought had to be given to the methodology, to use the word used by the Senator from New York. But it was due to the fact that for a decade we had been in an atrocious nightmare in Southeast Asia.

This bill was not conceived in the abstract. It was not conceived in the etheral. It was conceived in blood—50,000 dead and the whole litany of what occurred in Southeast Asia. That is why we are debating this bill today—not because it is a prosaic idea, but because of our recent tragic experience.

That experience has many facets—not only the Gulf of Tonkin in 1964, and not

Sen. Stennis Seeks to Restrict

By Judy Nicol

Washington Post Staff Writer

Sen. John C. Stennis, chairman of the Senate Armed Services Committee, said yesterday that he hopes to hold hearings aimed at further restricting the Central Intelligence Agency's involvement in domestic affairs.

"The main thing is to limit (CIA) operations, domestic operations," said Stennis on Face the Nation, a CBS interview program.

"I totally disapprove" of domestic political intelligence operations by the CIA, said the Mississippi Democrat who is chairman of the Central Intelligence Subcommittee of his Armed Services Committee.

He said he was told in June, 1972, by Richard M. Helms, then CIA director, that the CIA had no involvement in the Watergate burglary. He said Helms, now ambassador to Iran, "came to my office a very few days thereafter and assured me they did not have anything to do with planning or anything in connection with that break-in" (of the Democratic National Committee offices in the Watergate office building.)

Helms could not be reached for comment yesterday.

Helms' successor, William E. Colby, has acknowledged that the CIA had erred in preparing a psychiatric profile of Pentagon Papers defendant Daniel Ellsberg and in providing cameras, tape recorders and disguises to White House aides E. Howard Hunt Jr. and G. Gordon Liddy. Liddy and Hunt were later convicted in the Watergate break-in.

The CIA's charter, the 1947

CIA Domestic Role

National Security Act, says "the agency shall have no police, subpoena, law-enforcement powers or internal security functions" in the United States.

But the 1947 statute contains a loophole which has served as a charter for special foreign and domestic operations. It says that the agency shall "perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct."

Stennis, speaking of the Watergate scandals that unfolded as he was convalescing from gunshot wounds received in a January robbery, said, "As an American citizen I'm ashamed of it."

The senator said that he had attended a recent hearing at the U.S. Court of Appeals on President Nixon's refusal to turn over tapes of conversations relating to the Watergate matter.

If the Supreme Court rules that Mr. Nixon should turn

over the Watergate tapes and the President refuses, Stennis said, "I think it would be the most grave situation that's arisen maybe in a hundred years."

In an ABC broadcast yesterday, Sen. Howard Hughes (Iowa) said that the American people "should not be afraid of the impeachment process."

"To be afraid to use (the impeachment power) would mean we would be placing in the hands of this President and all future Presidents an implied power that they could do anything they wanted to in defiance of the law and the courts . . . with impunity, with immunity," Hughes said on ABC's Issues and Answer program.

"If the facts indicate that the President is in violation of the law, or if the President is refusing to obey the direct orders of the Supreme Court, then not to use (impeachment) would be a failure of the system entirely," said Hughes.

A third Democratic senator,

in remarks prepared for delivery in the Senate today, called for a Commission on the Office of the Presidency to examine the institution.

Sen. Walter F. Mondale (D-Minn.) said "the American people seem to have gone beyond simple respect for the office of the Presidency. . . Instead we have begun to create a monarchy out of an office intended to be the bulwark of democracy."